

# GENERAL TERMS AND CONDITIONS FOR PURCHASE OF GOODS UNEX 2006/1

## 1. General Provisions

- 1.1. These General Terms and Conditions for Purchase of Goods (hereinafter as "GTCPG") regulate contractual relationships between the Customer and other persons, in which the Customer is in the position of a purchaser pursuant to a contract of purchase or a similar contract; they may also regulate other contractual relationships if the parties to such contract so agree.
- 1.2. Provisions of these GTCPG shall apply unless the contracting parties agree otherwise in the Contract.
- 1.3. Provisions of commercial, delivery and other similar terms and conditions of the Supplier shall apply only to the extent explicitly referred to in the Contract.

## 2. Definitions

- 2.1. For the purpose of these GTCPG, the following terms shall have the following meanings:

- a) "the Contract" is a contract of purchase, general contract, supplemental agreement concluded according to a general contract, or any similar contract entered into pursuant to the Commercial or Civil Code or a foreign law governing the particular business transaction, or any other contract referred to in these GTCPG and entered into between the Customer and the Supplier,
- b) "the Customer" is a member company of the UNEX group, in particular
  - UNEX a.s.,
  - UNEX Slévárna, s.r.o.,
  - UNEX Servis, s.r.o.,
  - UNEX PERSAG, s.r.o.,
  - CPM Uničov, a.s.
- c) "the Supplier" is the selling party to a contract of purchase or a person with which the Customer signed a similar contract,
- d) "the Client" is a third party which signed a contract for work done or a contract of purchase, as the purchasing party, with the Customer,
- e) "the General Contract" is a contract regulating terms and conditions (generally type of performance, prices and delivery dates) under which the Supplier and the Customer will sign Supplemental Agreements for certain periods of time,
- f) "the Supplemental Agreement" is a contract concluded according to the General Contract, which specifies all elements of the respective type of contract, particularly the subject matter, time and price of the performance,
- g) "the Goods" are movable goods, particularly raw materials and products, or work in the case of a contract for work done, that the Supplier is to deliver to the Customer pursuant to the Contract,
- h) "the Documentation" is a set of documents necessary for the operation, use and regular maintenance of the Goods, and other documents related to the Goods which are to be, in accordance with the Contract or legislation in force, handed over to the Customer in relation to the delivery of the Goods, particularly declarations of conformity and attestations,
- i) "the Technical Specification" is documents specifying the shape, functions, composition or other characteristics of the Goods,
- j) "the Inspection" is an activity aiming at ascertaining the existing condition, by which the Customer verifies proper performance of the Contract,
- k) "the Test" is a test of quality and functionality of the Goods, quality of the used raw materials or correctness of technological processes or technical documentation, as required by the Contract or legislation in force,
- l) "the Acceptance" is a verification of quantity and quality of the delivered Goods upon delivery.

- 2.2. Terms not stated in Section 2.1 shall have meanings ascribed to them in the legislation or meanings regularly used, unless defined otherwise in the Contract.

## 3. Technical Documents and Business Papers

- 3.1. Catalogues, leaflets, offers, announcements, images and price lists and information on weight, dimensions, capacity, price, performance, etc. contained therein shall be binding only if they are explicitly referred to in the Contract.
- 3.2. Plans and technical documents which are handed over by the Customer to the Supplier pursuant to the Contract and which are to be or may be used for manufacturing the Goods or parts thereof shall remain the exclusive property of the Customer. Without its consent, the Supplier shall not use, copy, distribute or make them or their content available to third parties. In the event of breach of this obligation, the Supplier shall be obligated to pay the Customer a contractual penalty in the amount of CZK 50,000 per each individual breach. In addition to such contractual penalty, the Customer shall be entitled to damages.

## 4. Price, Packaging, Transport

- 4.1. The agreed price of the Goods shall apply to the agreed delivery clause pursuant to Section 6.1.
- 4.2. Prices agreed in the General Contract shall apply to any Supplemental Agreements concluded within the planning period.
- 4.3. The planning period is a calendar year.
- 4.4. The Supplier shall be obligated to pack the Goods in such manner so that they are protected from weather and other damage during the course of transport. The price of the packaging, except for returnable containers, shall be included in the price of the Goods.
- 4.5. The Goods delivered for weight-related prices shall be invoiced according to the actual net weight at delivery. The weighing shall be carried out by the Customer; the Supplier shall have the right to be present at the weighing if it is present at the delivery.

- 4.6. In the event the place of performance is not the Customer's registered office, the Supplier shall be obligated, upon the Customer's request and at the Customer's expense, to ensure the transport of the Goods from the place of performance to the place specified by the Customer.

## 5. Inspection, Tests and Acceptance

- 5.1. If it is stipulated that the Customer has the right to carry out the Inspection, it shall be obligated to notify the Supplier at least one business day in advance of the date of the Inspection; a notification made by telephone or electronic mail shall be sufficient.
- 5.2. If the Customer discovers during the Inspection that the Supplier does not observe requisite or stipulated technological processes or breaches generally binding or stipulated rules of quality control, it shall notify the Supplier of this in writing. The Supplier shall be obligated to rectify such breach immediately and to notify the Customer of this in writing within three business days. Should it fail to do so, the Customer shall have the right to withdraw from the Contract.
- 5.3. The Supplier shall be obligated to notify the Customer at least five business days in advance of the Tests the Customer has the right to be present at pursuant to the Contract.
- 5.4. The Customer shall always be allowed to carry out the Test at the Acceptance.
- 5.5. The Tests shall be subject to general practice of the respective branch of industry.
- 5.6. If the Test reveals that the Goods do not correspond to the Contract, the Supplier shall be obligated to remove the deficiencies without delay. If so requested by the Customer, the Test shall be repeated.
- 5.7. The cost of the contractual and repeated Tests shall always be borne by the Supplier.
- 5.8. If it is discovered during the Acceptance that the Goods do not correspond to the Contract, the Customer shall have the right to charge the Supplier a contractual penalty in the amount of CZK 20,000 and to claim reimbursement of the cost of the Test carried out pursuant to Section 5.4. in the amount exceeding the contractual penalty.
- 5.9. The Customer shall not be obligated to take delivery of Goods the quantity or quality of which does not correspond to the Contract; the Supplier shall be notified of the refusal to take delivery within three working days. If the place of performance is the Customer's registered office, the Customer shall be, at its own discretion, allowed to either hand or send the Goods back to the Supplier at the Supplier's expense and risk or store them at the Supplier's expense and risk and notify the Supplier of such storage within three business days; the storage fee shall amount to 0.1 % of the price of the stored goods per day.

## 6. Delivery Terms and Conditions

- 6.1. The Goods shall be delivered according to the INCOTERMS 2000 delivery clause DDU registered office of the Supplier.
- 6.2. Together with the Goods, the Supplier shall be obligated to provide the Customer with the Documentation; failure to provide the Documentation shall be considered a failure to deliver the Goods.
- 6.3. The Customer shall confirm the delivery by signing a delivery note or an acceptance report.
- 6.4. The Goods shall not be considered as delivered if the Customer refuses to take delivery thereof pursuant to Section 5.9.
- 6.5. The title to the Goods shall pass from the Supplier to the Customer upon the acceptance of the Goods at the latest, unless it results from the agreed delivery conditions that such title passes earlier.
- 6.6. Part performance shall be admissible only with previous written approval from the Customer.
- 6.7. If the period of time between the date of signing the Contract and the date of delivery is longer than 15 days, the Supplier shall be obligated to notify the Customer at least 3 days in advance of its intention to deliver the Goods; if the Supplier fails to do so, the Customer shall have the right to charge the Supplier a contractual penalty in the amount of 2 % of the price of such delivered Goods.
- 6.8. The Supplier shall be allowed to deliver prior to the date agreed in the Contract only with the approval of the Customer. In the event of such delivery, the maturity of the invoice shall be the same as if the delivery occurred on the originally agreed date.
- 6.9. The Supplier shall be obligated to immediately notify the Customer of any and all matters and information related to it which may affect the performance of its obligations under the Contract; if the Supplier fails to do so, it shall be held responsible for any damage incurred by the Customer in consequence of not having been informed in time.

## 7. Payment Terms and Conditions

- 7.1. The right to invoice the Goods shall become exercisable on the date the Goods are properly delivered and the Customer receives the Documentation.
- 7.2. The Customer shall be obligated to transfer the price to the Supplier's account on the basis of an invoice issued by the Supplier not earlier than on the day the right to invoice becomes exercisable. Such invoice shall contain elements of a tax document as specified in the Value Added Tax Act and also a contract number according to the Customer's records and a date of maturity corresponding to the Contract. If such invoice does not contain the Contract number according to the Customer's records, the invoice shall be accompanied by a copy of a confirmed order. If the price includes several items, the Supplier shall be obligated to charge for them separately on the invoice.
- 7.3. The Customer shall have the right to return an invoice – without paying it – which is issued earlier than on the day the Supplier's right to invoice becomes exercisable pursuant to Section 7.2. or contains incorrect data within 15 days of its delivery.

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- According to the nature of such deficiency, the Supplier shall be obligated to correct the invoice or issue a new invoice. The maturity period shall start to run again from the date such corrected or newly issued invoice is delivered to the Customer.
- 7.4. The maturity period of an invoice for the Goods shall be 60 days and the maturity period of an invoice for contractual penalties or interest on late payment shall be 30 days, commencing on the date such invoice is issued, however not less than 20 days from the date on which the invoice is delivered.
- 7.5. The term "payment" shall be construed as deduction of the paid amount from the Customer's account and its crediting to the Supplier's account specified on the invoice.
- 7.6. Advance payments paid by the Customer to the Supplier shall be set off against the price of the Goods. The Supplier shall not be allowed to consider them to be a cancellation fee or set them off against its other claims against the Customer.
- 7.7. In the event of the Supplier's delay in delivery of the Goods intended for manufacturing goods or executing work for the Client, the maturity of the invoice pursuant to Section 7.4. shall be extended until the Customer knows the Client's position towards application of sanctions for the Customer's delay in delivery of such goods or execution of such work for the Client, however by three months at most.
- 7.8. Settlement of an invoice or its part shall not be deemed an acknowledgment of delivery as properly performed or acknowledgement or correctness of the invoiced amount.
- 7.9. The Supplier shall not be allowed to assign a claim arisen from the Contract to any third party without previous written approval from the Customer; nevertheless the Supplier may put such claim as a security.
- 8. Warranties**
- 8.1. The Supplier shall be obligated to deliver the Goods free of factual and legal defects. The Goods shall be deemed defective if
- they do not correspond to the Technical Specification in any respect,
  - they do not have the characteristics stated by the Supplier in samples, prototypes or in the offer,
  - they are not suitable for the purpose specified in the Contract or intended by the parties thereto,
  - their origin or characteristics are not certified by requisite documents,
  - they are encumbered with any rights of third parties,
  - they are otherwise different from what the Customer can reasonably expect.
- 8.2. The Supplier shall provide a warranty on the Goods for a period of 24 months. This time limitation shall not apply in the event of damage to health or property different from the defective Goods caused by defects of the Goods and in the event of damage suffered in consequence of rights of third parties to the Goods or the use thereof, particularly intellectual property rights.
- 8.3. Unless stated otherwise below, the warranty period shall start to run from the date on which the Supplier's right to issue an invoice becomes exercisable pursuant to Section 7.1.; however, if the Supplier is obligated to put the Goods into operation, the warranty period shall start to run from the date of such putting into operation. The warranty period shall not run during the time for which the Customer cannot use the Goods because they have defects the responsibility for which is borne by the Supplier.
- 8.4. The Supplier shall be obligated to notify the Customer at the latest on the day the right to invoice becomes exercisable of all discovered and assumed defects of the Goods delivered to the Customer.
- 8.5. The Customer shall be obligated to notify the Supplier of defects in writing and without undue delay after their discovery, by the end of the warranty period. Such notification shall also mention such defects in an acceptance report or in a copy of a delivery note given to the Supplier.
- 8.6. The Supplier shall be obligated to provide its opinion regarding a warranty claim at the latest within three business days of the date on which such warranty claim is delivered to it; if the Supplier fails to do so, the warranty claim shall be deemed justified. If it is necessary to carry out a Test at the Customer's premises in order to consider the justification of a warranty claim, the Supplier shall be obligated to appear and attend such Test at the latest two days after receiving the warranty claim; if the Supplier fails to do so, the Test shall be deemed to have been carried out and proved the justification of the warranty claim. If it is necessary to carry out the Test in a laboratory or a similar facility in order to consider the justification of a warranty claim, the Customer shall have the right, after receiving the Suppliers opinion, to select an expert or a professional institute from a list kept by a court and to order the Test at its own expense; if such test proves the justification of the warranty claim, the Supplier shall be obligated to reimburse the Customer the cost of the Test.
- 8.7. The Supplier shall be obligated, according to the Customer's decision, to repair or replace the defective Goods with new goods free from any defect within three business days of the date on which the Supplier receives a warranty claim at the latest. In the event of endangering the Customer's safety in operation or if the Supplier is in delay with the removal of defects or if an immediate repair or replacement of the defective Goods is not possible, the Customer shall have the right to remove the defects by itself or procure alternate Goods from another person and claim reimbursement of costs from the Supplier.
- 8.8. As far as spare parts or repaired parts are concerned, the same warranty terms and conditions as in the case of the original subject matter of the delivery shall apply. The warranty period applicable to replaced or repaired parts shall amount to at least half of the warranty period specified in Section 8.1., starting to run from the moment of the removal of the defect. For other parts of the Goods, the warranty period shall be extended by the period of time for which it is not possible to use the Goods properly in consequence of the defect.
- 8.9. The Supplier shall be obligated to compensate the Customer for all and any direct and indirect damage incurred in consequence of defects of the Goods; such damage shall also include sanctions and damages claimed from the Customer by the Client.
- 9. Sanctions and Damages**
- 9.1. If the Supplier is in delay with delivery of the Goods, the Customer shall have the right to charge the Supplier a contractual penalty in the amount of 5% of the price of the Goods plus 1 % of the price of the Goods or Services for the second and each following commenced day of delay.
- 9.2. In addition to the contractual penalty, the Customer shall be entitled to damages for any loss incurred in relation to the Supplier's delay; the incurred loss shall be considered to be sanctions and damages claimed from the Customer by the Client for delay in delivery of work, the execution of which is feasible with the Goods the Supplier is in delay with delivery of, unless it is proved that such delay of the Supplier cannot influence the origination and continuance of the Customer's delay.
- 9.3. In the event of defective performance, the Customer shall have the right to charge the Supplier a contractual penalty in the amount of 5 % of the price of the defective performance plus 1 % of the price for the third and each following day after the date of making a warranty claim until the defects are removed; if only a functionally separable part is defective, the contractual penalty shall be calculated only from the price of such part. In addition to the contractual penalty, the Customer shall be entitled to damages for any loss incurred in relation to the defects; the incurred loss shall be considered to be sanctions and damages rightfully claimed from the Customer by the Client for defects of work, the execution of which is feasible with the defective Goods.
- 9.5. The Supplier shall also be obligated to pay the Customer damages for any other loss incurred in relation to breach of the Contract by the Supplier or in relation to the fact that the Customer withdraws from the Contract in consequence of such breach.
- 9.6. If the Supplier does not provide the Customer with a tax document for a received advance payment within 15 calendar days of the date on which such payment is received, the Supplier shall be obligated to pay the Customer a contractual penalty in the amount of 5 % of the received advance payment plus 1 % of the advance payment per each day of delay with the delivery of the tax document.
- 10. Circumstances Excluding Liability**
- 10.1. The liability of parties for partial or full non-performance of contractual obligations shall be excluded if such non-performance is caused by force majeure. Force majeure shall mean any unforeseen or unavoidable event that occurred independently of the will of the contracting parties and which makes it impossible for any of the contracting parties to partially or fully perform their obligations. Force majeure events shall only be events that occurred after the Contract is signed and which cannot be prevented by the affected party. If the force majeure event lasts for a period of time not exceeding 90 calendar days, the parties shall be obligated to perform their obligations under the Contract as soon as the effects of the force majeure end, delivery periods and all other terms and periods being extended by the time for which the force majeure lasts. Force majeure shall not include subcontractors' delay in delivery, lock-outs or unlawful strikes.
- 10.2. The contracting party affected by the force majeure shall immediately, however within 10 days at the latest, notify the other contracting party of such event in writing by registered mail. Failure to observe this term shall cause an extinction of the right to rely on such event.
- 11. Withdrawal from Contract**
- 11.1. It shall be possible to withdraw from the Contract only in cases specified by the Contract, these GTCPG, the Commercial Code or the Civil Code, as amended.
- 11.2. The Customer shall have the right to withdraw from the Contract if the Supplier is in delay with delivery of the Goods for longer than 2 weeks or if the Supplier is in delay with removal of defects for longer than three days or if the Supplier pays prior to the agreed date of delivery, however at the latest within 30 days of the effective date of the Contract, a cancellation fee in the amount of 5% of the price of the Goods.
- 11.3. The withdrawal from the contract shall be made via a notice delivered to a person authorized to receive registered mail on behalf of the Supplier or by registered mail sent to the address of the Supplier's registered office; such letter shall be deemed delivered three days after its mailing, even in the event that the attempt to deliver it is unsuccessful.
- 11.4. Such withdrawal shall cancel the General Contract as on the date of withdrawal and other Contracts from the beginning with the exception of Articles 1, 9, 11, 12, 13 and 14; provisions of the above Articles shall remain in force even after the withdrawal from the Contract.
- 12. Confidentiality**
- 12.1. Any and all information, know-how, Technical Documentation and parts thereof, including electronic files, the access to which is acquired by the Supplier in connection with negotiations for the conclusion of the Contract or the performance thereof shall be regarded as confidential during the term of the Contract and for the following 10 years and shall not be used for any other purpose than for the performance of contractual obligations of the Supplier to the Customer. Copies of such information may be made only with prior written approval from the Customer.
- 12.2. Upon a request from the Customer, the Supplier shall be obligated to return or destroy, without delay, all carriers of the information specified in Section 12.1., including all copies.
- 12.3. In relation to third parties, the Supplier shall be obligated to maintain confidentiality of terms and conditions agreed in the Contract and the content of the Technical Documentation and shall be allowed to make them available only to the employees directly participating in the performance of the Contract, members of a body

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authorized to represent the Supplier externally, members of a board of supervisors, employees of a legal department, auditors and tax advisors.

- 12.4. The Supplier shall be obligated to maintain confidentiality regarding all matters related to the Customer learned in connection with negotiations for the conclusion of the Contract or the performance thereof.
- 12.5. The Customer shall have the right to charge the Supplier a contractual penalty in the amount of CZK 50,000 for each breach of the obligation to maintain confidentiality specified in Sections 12.1. to 12.4. In addition to the contractual penalty, the Customer shall be entitled to damages for any loss incurred in relation to such breach of the obligation to maintain confidentiality.

### 13. Other Provisions

- 13.1. Should there be a possibility of environmental, sanitary or safety hazards occurring in relation to the subject matter of the performance under the Contract or if there are special rules for the use or disposal of the Goods or parts thereof laid down by legislation in force, the Supplier shall be obligated to notify the Customer of such matters. In the event of breach of this obligation, the Supplier shall be obligated to pay the Customer a contractual penalty in the amount of 30 % of the price of the Goods. In addition to the contractual penalty, the Customer shall be entitled to damages.
- 13.2. If the Contract refers to an appendix thereto, it shall be construed that such appendix constitutes an integral part of the Contract. If the content of an appendix is in conflict with the content of the Contract, the Contract shall take precedence.
- 13.3. Any changes to the Contract shall be made in writing.
- 13.4. Any legal act requiring a written form may also be made by fax. If such fax is not confirmed by a written letter delivered at the latest within 5 days of the sending of the fax, despite so requested, such legal act shall be regarded as not made.
- 13.5. If any provision of the Contract or GTCPG is determined to be invalid in whole or in part, such provision shall not affect the validity of the remainder of the Contract. In such case, the parties shall, without undue delay, agree to replace the invalid provision with a new provision that is as similar in intent to the invalid provision as is legally possible; if no such agreement is made between them within 15 days of the date on which any of the parties requested a conclusion of such agreement, the replacement of the invalid provision shall be decided on, upon a motion filed by any of the parties, by an arbitrator pursuant to Article 14.

### 14. Governing Law and Settlement of Disputes

- 14.1. The Contract shall be governed by the law of the Czech Republic. Matters not covered by the Contract or these GTCPG shall be enforced in accordance with relevant provisions of the Commercial Code and the Civil Code, as amended.
- 14.2. Any dispute arising out of or in connection with the Contract, which cannot be solved by the contracting parties, shall be dealt with and settled by competent courts of the Czech Republic. If the Supplier is a legal entity with a registered office or an individual with residence outside the territory of the Czech Republic, the competent court shall be the court within the jurisdiction of which the Customer has its registered office.
- 14.3. On the date when the Supplier receives a written decision of the Customer to transfer the settlement of disputes arising out of or in connection with the Contract from courts to arbitrators, the provisions of Section 15.2. shall expire and lose its obligatory force and the following arbitration clause shall take effect: "The parties stipulate that any dispute arising out of or in connection with this Contract shall be dealt with and settled in arbitration proceedings at the Arbitration Court attached to the Economic Chamber of the Czech Republic and the Agricultural Chamber of the Czech Republic in Prague by one arbitrator appointed pursuant to the rules thereof. The language of the arbitration shall be Czech". This provision shall not affect the competence of courts in proceedings initiated prior to the above date.